THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.17232 OF 2007

DATED: 28-08-2007

Between:

B. Srihari and another

.. Petitioners

and

The Government of Andhra Pradesh, Labour Employment Training & Factories (LAB.1) Department, rep. by its Special Chief Secretary to Government, Secretariat, Hyderabad and another.

.. Respondents

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ORDER:

This writ petition is filed being aggrieved by a letter, dated 23.07.2007, issued by the 1st respondent - Government of Andhra Pradesh, Labour Employment Training and Factories (Lab-1) Department, refusing to refer the dispute raised by the petitioners for adjudication under Section 10 of the Industrial Disputes Act, 1947.

It seems, on failure of conciliation proceedings in respect of an industrial dispute raised by the petitioners against the 2nd respondent-management, failure report was submitted by the Conciliation Officer-Deputy Commissioner of Labour, Hyderabad, on 20.06.2007, requesting the 1st respondent- Government to examine and refer the matter to Industrial Tribunal for adjudication. Thereupon, the Government refused to refer the matter for adjudication stating that no employee-employer relationship exists between the petitioners and the management, since the Cooperative Canteen was closed in the year 1998 itself, and, therefore, the dispute does not merit reference for adjudication.

May be, the canteen was closed in the year 1998, but, according to the petitioners, they are regular employees of Voltas Limited and, hence, entitled for absorption into the same. In fact, the dispute was raised as early as in the year 2001. But, there was some delay in reporting failure by the Conciliation Officer. Therefore, I am of the opinion that the 1st respondent - Government ought not to have refused to refer the dispute raised by the petitioners for adjudication on

the preconceived notion that at that time no employee-employer relationship exists between the petitioners and the management. Moreover, it is for the Industrial Tribunal to decide whether such relationship exists between the management and the petitioners or not, but not for the Government. Hence, the action of the 1st respondent is declared as arbitrary and illegal and the impugned letter is liable to be set aside.

Accordingly, the writ petition is allowed and the 1st respondent is directed to refer the dispute raised by the petitioners to the appropriate Tribunal for adjudication on merits. No costs.

C.V. RAMULU, J

28th August, 2007.
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